

REMARKS

This document is filed in reply to the Office Action dated March 17, 2008 (“Office Action”). Applicant has cancelled claim 5 and amended claims 18-20 to more clearly set forth the claimed invention. Support for the amendments to claims 18-20 can be found in original claims 18-20 and in the Specification at, e.g., page 1, paragraphs 1-2, or page 18, lines 4-22. Support for “the multilayer coating contains a basecoat” appears in, e.g., page 1, line 22. No new matter has been introduced.

35 U.S.C. § 112 Rejections

The Examiner rejected claims 5 and 18-20 as being indefinite. See the Office Action, page 2, lines 3-7. Applicant has cancelled claim 5 and amended claims 18-20. In view of the amendments, Applicant submit that the rejections should be withdrawn.

35 U.S.C. § 101 Rejections

Claims 18-20 were rejected under §101. See the Office Action, page 2, lines 13-17. In view of the amendments to the claims, Applicant respectfully requests that the rejections be withdrawn.

35 U.S.C. § 102/103 Rejections

The Examiner rejects claims 2, 3, 7, and 8 for anticipation by or obviousness over Chang *et al.*, US Patent 5,955,532 (“Chang”). See the Office Action, page 3, lines 7-8. Applicant respectfully traverses and will discuss independent claim 2 first.

Claim 2 is drawn to an emulgator-free microgel dispersed in an aqueous phase, obtainable by a) producing a polyacrylate (A) in the presence of at least one compound (B) containing a phosphonic acid group, where the polyacrylate (A) has at least one hydroxyl group and at least one carboxyl group; b) aqueous phase crosslinking of the reaction mixture originating from step a) with an aminoplast resin (C). The microgel is characterized in that the reaction mixture originating from step b) is not subjected to any subsequent emulsion polymerization.

According to the Examiner, Chang teaches “polymerizing methacrylic acid, hydrooxyethylacrylate and alkylmethacrylates in the present of the chain transfer agent

DMG COBALT3. Vinylphosphonic acid ... can be used in place of DMG COBALT3. Such a polymerization qualifies as ... step a) [of claim 2] ... The result material is then reacted with Cymel301 (a melamine resin) and other additives which qualifies as ... step b) [of claim 2].” See the Office Action, page 3, lines 9-16.

Applicant disagrees and would like to point out that the polymerization reaction in Chang produced graft copolymers which form a stable dispersion in water, i.e. a latex. See column 2, lines 29-30 of Chang. According to Chang, the copolymers form particles and the particles are crosslinked by means of di(meth)acrylate monomeric units in the backbone and have an average particle size of 50 to 1000 nanometers (nm). See column 2, lines 37-40. The melamin resin, according to Chang, is not used to react with the graft copolymer particles to form microgel particles, but only to react with the binder to give the resulting coating (i.e., film forming process). Suitable crosslinking agents for the coating composition are melamine formaldehyde or alkylated melamine formaldehyde compounds. See column 2, lines 41-43. In contrast, the microgel of claim 2 is a reaction product between a polyacrylate and an aminoplast resin, resulting in a microgel and not in a coating as described in Chang. Thus, it is submitted that Chang does not teach or suggest the microgel of claim 2, and therefore claim 2 is patentable over Chang.

Independent claim 7 is draw to an emulgator-free microgel dispersed in an aqueous phase obtainable by

- a) producing a polyacrylate (E) by copolymerization
 - of a monomer (i) with at least one polymerizable double bond and at least one hydroxyl group;
 - of a monomer (ii) with at least one polymerizable double bond and at least one carboxyl group;
 - of a monomer (iv) with at least one polymerizable double bond at and at least one phosphonic acid group;
- b) aqueous phase crosslinking of the reaction mixture originating from step a) with an aminoplast resin (C). The reaction mixture originating from step b) does not undergo subsequent emulsion polymerization. At least for the same reasons set forth above, claim 7 is patentable over Chang.

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Claims 3 and 8 depend from claim 2 or 7. At least for the same reasons, they are also patentable.

35 U.S.C. § 101 Rejections

Claims 2, 3, 7, and 8 were rejected for a provisional double patenting as claiming the same invention as that of claims 1, 2, 5, and 6 of co-pending Application No. 10-567616. See the Office Action, page 4, lines 3-6.

Assuming that the other rejections discussed above have been overcome, this provisional double patenting rejection is the only remaining rejection. MPEP §804I.B2 states, in pertinent part,

If a "provisional" statutory double patenting rejection is the only rejection remaining in one of the applications (but not both), the examiner should withdraw the rejection in that application and permit that application to issue as a patent, thereby converting the "provisional" double patenting rejection in the other application into a double patenting rejection when the application issues as a patent.

Thus, Applicant submits that the Examiner should withdraw the provisional rejection and permit the present application to issue as a patent.

Conclusion

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

The Petition for Extension of Time fee in the amount of \$60 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account

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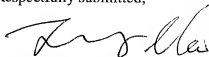
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Respectfully submitted,

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